

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
JACOB BURBAR,

Plaintiff,

ANSWER

- against -

Index No. 12790/2012

INCORPORATED VILLAGE OF GARDEN CITY,  
COUNTY OF NASSAU, POLICE OFFICERS  
JOHN DOE #1 AND JOHN DOE #2,

Defendants.  
-----X

Defendant Incorporated Village of Garden City (the "Village" or "Defendant"), by its attorneys Cullen and Dykman LLP, answers the complaint (the "Complaint") in this action as follows:

1. Denies knowledge or information sufficient to form a belief as to the allegations of paragraph "FIRST" of the Complaint.
2. Admits that the Village is a municipal corporation and except as so admitted, to the extent the allegations contained in paragraph "SECOND" call for a legal conclusion, no response is required and denies the remaining allegations contained in paragraph "SECOND" of the Complaint.
3. To the extent the allegations contained in paragraph "THIRD" of the Complaint call for a legal conclusion, no response is required, and, otherwise, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "THIRD" of the Complaint.
4. Admits that the Village employs police officers and, except as so admitted, denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "FOURTH" of the Complaint.

5. To the extent that the allegations contained in paragraph "FIFTH" call for a legal conclusion, no response is required, otherwise, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "FIFTH" of the Complaint.

6. Denies the allegation contained in paragraph "SIXTH" of the Complaint.

7. Denies the allegation contained in paragraph "SEVENTH" of the Complaint.

8. Admits that on or about January 11, 2012, a notice of claim pursuant to N.Y. Gen. Municipal Law §50 was served upon the Village and, except as so admitted, denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "EIGHTH" of the Complaint.

9. To the extent the allegations contained in paragraph "NINTH" call for a legal conclusion, no response is required, otherwise, denies the allegation contained in paragraph "NINTH" of the Complaint.

10. Admits that more than thirty days have passed since January, 2012 and, except as so admitted, denies the allegations contained in paragraph "TENTH" of the Complaint.

11. Admits that a hearing pursuant to N.Y. Gen. Municipal Law §50 took place on September 12, 2012, and except as so admitted, denies the allegation contained in paragraph "ELEVENTH" of the Complaint.

12. Denies the allegation contained in paragraph "TWELFTH" of the Complaint.

13. Denies the allegation contained in paragraph "THIRTEENTH" of the Complaint.

14. Denies the allegation contained in paragraph "FOURTEENTH" of the Complaint.

15. Admits that the Village employs police officers and, except as so admitted, denies the allegations contained in paragraph "FIFTEENTH" as they pertain to the Village, and otherwise denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "FIFTEENTH" of the Complaint.

16. Denies the allegations contained in paragraph "SIXTEENTH" of the Complaint.

**ANSWERING THE FIRST CAUSE OF ACTION**

17. In response to the allegations contained in Paragraph "SEVENTEENTH" of the Complaint, Defendant repeats and realleges its responses to Paragraphs "FIRST" through "SIXTEENTH" as is fully set forth herein.

18. Admits that on October 13, 2011, plaintiff was involved in a road rage incident whereby Mr. Laterza alleged that Plaintiff waived a gun at him and, except as so admitted, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "EIGHTEENTH" of the Complaint.

19. Admits that police officers employed by the Village and by defendant Nassau County arrived at 164 Mayfair Avenue, West Hempstead, New York on October 13, 2011, that officers inquired as to whether plaintiff had firearms on his person or in his residence and, except as so admitted, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "NINETEENTH" of the Complaint.

20. Admits that plaintiff voluntarily went to the Garden City Police Department and was issued a desk appearance ticket on October 13, 2011 in connection with the road rage incident with Michael Laterza, and except as so admitted, denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "TWENTIETH" of the Complaint.

21. To the extent the allegations contained in paragraph "TWENTY-FIRST" call for a legal conclusion, no response is required, and otherwise denies the allegations contained in paragraph "TWENTY-FIRST" of the Complaint.

22. To the extent the allegations contained in paragraph "TWENTY-SECOND" call for a legal conclusion, no response is required, and otherwise denies knowledge or information

sufficient to form a belief as to the remainder of the allegations contained in paragraph "TWENTY-SECOND" of the Complaint.

23. To the extent the allegations contained in paragraph "TWENTY-THIRD" call for a legal conclusion, no response is required, and otherwise denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "TWENTY-THIRD" of the Complaint.

24. To the extent the allegations contained in paragraph "TWENTY-FOURTH" call for a legal conclusion, no response is required, and otherwise denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "TWENTY-FOURTH" of the Complaint.

25. Denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "TWENTY-FIFTH" of the Complaint.

26. To the extent the allegations contained in paragraph "TWENTY-SIXTH" call for a legal conclusion, no response is required, and otherwise denies knowledge or information sufficient to form a belief as to the remainder of the allegations contained in paragraph "TWENTY-SIXTH" of the Complaint.

27. Denies the allegations contained in paragraph "TWENTY-SEVENTH" of the Complaint.

#### **ANSWERING THE SECOND CAUSE OF ACTION**

28. In response to the allegations contained in Paragraph "TWENTY-EIGHTH" of the Complaint, Defendant repeats and realleges its responses to Paragraphs "FIRST" through "TWENTY-SEVENTH" as is fully set forth herein.

29. Denies the allegations contained in paragraph "TWENTY-NINTH" of the Complaint as they pertain to the Village and, except as so denied, denies knowledge or

information sufficient to form a belief as to the remainder of the allegations contained in paragraph "29" of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "THIRTIETH" of the Complaint.

31. Denies the allegations contained in paragraph "THIRTY-ONE" of the Complaint.

32. Denies the allegations contained in paragraph "THIRTY-TWO" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

33. The Complaint fails to state a cause of action against the Village.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

34. The Complaint is barred by the applicable statute of limitations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

35. All damages sustained by Plaintiff were caused by the actions of Plaintiff and resulted from Plaintiff's own negligence.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

36. The Village has a complete defense based upon documentary evidence.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

37. While denying all allegations in the Complaint regarding liability, the injury and damages allegedly sustained by Plaintiff, to the extent Plaintiff may be able to prove any injuries and/or damages, any such damages were not proximately related to any act or omission of the Village.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

38. While denying all allegations in the Complaint regarding liability, the injury and damages allegedly sustained by Plaintiff to the extent Plaintiff may be able to prove any injuries and/or damages, said damages were proximately caused by intervening and/or superseding acts,

and/or fault of Plaintiff and/or third parties over whom the Village had no control or right of control and for whose actions the Village is not liable.

**AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE**

39. Plaintiff has not suffered any damages for which relief may be had.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

40. Plaintiff's claims are barred by the doctrines of waiver, estoppel, and laches.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

41. All actions of the Village and its Police Officers were reasonable and justified.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

42. Plaintiff's claims are barred by the doctrine of probable cause.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE**

43. Defendant Village is not subject to liability on the basis of respondent superior.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

44. Garden City Police Officers did not violate any rights of plaintiff of which a reasonable person would have known and thus, are entitled to qualified immunity.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

45. Plaintiff's detention was objectively reasonable.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

46. Plaintiff's claims are barred in whole or in part by the doctrine of qualified immunity.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

47. Plaintiff is not entitled to a jury trial on all or some of the claims herein.

**AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE**

48. All actions of the Village were at the direction of the Nassau County Defendants.

WHEREFORE, Defendants Village of Garden City respectfully requests that judgment be rendered against Plaintiff dismissing this action in its entirety and awarding costs, disbursements, and such other and further relief as the Court deems appropriate.

Dated: Garden City, New York  
November 19, 2012

CULLEN AND DYKMAN LLP

By:



Cynthia A. Augello, Esq.  
Attorneys for Defendant Incorporated  
Village of Garden City  
100 Quentin Roosevelt Boulevard  
Garden City, New York 11530  
(516) 357-3700

TO: Robert Klugman, Esq.  
Attorney for Plaintiff  
1305 Franklin Avenue, Suite 270  
Garden City, New York 11530

**EXHIBIT "C"**



-----X  
In the Matter of the Claim of  
JACOB BURBAR,

Claimant(s),

-against-

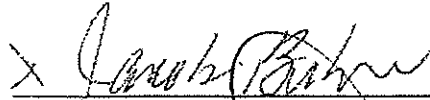
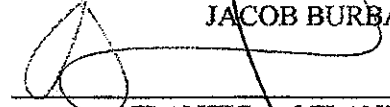

INCORPORATED VILLAGE OF GARDEN  
CITY and COUNTY OF NASSAU,

CONSENT TO CHANGE  
ATTORNEY

Respondent(s).  
-----X

IT IS HEREBY CONSENTED THAT, FLANZIG and FLANZIG, LLP of 323 Willis Avenue, Mineola, N.Y. 11501-0151 be substituted as attorney(s) of record for the undersigned party(ies) in the above-entitled action in place and stead of the undersigned attorney(s) as of the date hereof.

Dated: Mineola, New York  
December 5, 2012

X   
\_\_\_\_\_  
JACOB BURBAR  
  
\_\_\_\_\_  
FLANZIG and FLANZIG, LLP  
Incoming Attorneys  
  
\_\_\_\_\_  
ROBERT KLUGMAN, ESQ.  
Outgoing Attorney

STATE OF NEW YORK )

) ss:

COUNTY OF NASSAU )

On the \_\_\_\_\_ day of \_\_\_\_\_ 2012, before me personally came JACOB BURBAR to me known and known to me to be the same person described in and who executed the foregoing consent and acknowledged to me that (s)he executed the same.

\_\_\_\_\_  
Notary Public

**EXHIBIT "D"**

## CERTIFICATE OF DISPOSITION

DISTRICT COURT OF NASSAU COUNTY - HEMPSTEAD

THE PEOPLE OF THE STATE OF NEW YORK  
VS.DOCKET NUMBER: 2011NA023087  
DATE OF BIRTH: 08/12/1963BURBAR, JACOB  
164 MAYFAIR AVENUE  
WEST HEMPSTEAD NY 11552

DATE OF ARREST/ISSUE: 10/13/2011

## ARRAIGNMENT CHARGES:

PL 265.03 03 CF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 265.02 5A DF	CRIMINAL POSSESSION OF A WEAPON(WEAPON TYPE NOT SPECIFIED)
PL 120.14 01 AM	MENACING
PL 120.20 00 AM	RECKLESS ENDANGERMENT
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	CRIMINAL POSSESSION OF A WEAPON

DATE OF DISPOSITION: 06/14/2012 JUDGE: GIANELLI, S PART: C6

## DISPOSITIONS:

PL 265.03 03 CF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 265.02 01 DF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 265.02 5A DF	DISMISSED(WEAPON TYPE NOT SPECIFIED)
PL 120.14 01 AM	MENACING
PL 120.20 00 AM	DISMISSED AND SEALED UNDER CPL SECTION 160.50 RECKLESS ENDANGERMENT
PL 265.01 01 AM	DISMISSED AND SEALED UNDER CPL SECTION 160.50 CRIMINAL POSSESSION OF A WEAPON
PL 265.01 01 AM	DISMISSED AND SEALED UNDER CPL SECTION 160.50 CRIMINAL POSSESSION OF A WEAPON
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PL 265.01 01 AM	DISMISSED AND SEALED UNDER CPL SECTION 160.50 CRIMINAL POSSESSION OF A WEAPON

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN THIS COURT.

MICHAEL BEGANSKAS  
CLERK OF THE COURT06/18/2012  
DATEFEE: 5.00  
NUMBER: 213136

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT SEAL.)

DISTRICT COURT OF NASSAU COUNTY

FIRST DISTRICT: PART ARRAIGNMENT A

-----X

THE PEOPLE OF THE STATE OF NEW YORK

- against - Docket No. 2011NA023087

JACOB BURBER,

Defendant.

-----X

99 Main Street  
Hempstead, New York 11550  
October 14, 2011

B E F O R E :

HONORABLE ERIC BJORNEBY, Judge

A P P E A R A N C E S :

FOR THE PEOPLE:

HONORABLE KATHLEEN M. RICE, ESQ.  
NASSAU COUNTY DISTRICT ATTORNEY

262 Old Country Road  
Mineola, New York 11501

BY: ELIZABETH SCHLISSEL, ESQ.  
Assistant District Attorney

FOR THE DEFENDANT:

LEGAL AID SOCIETY OF NASSAU COUNTY  
One Helen Keller Way  
Hempstead, New York 11550

BY: YOLANDA GUERRA, ESQ.

MICHELE ROSSI, R.P.R.  
Official Court Reporter

1 THE CLERK: Jacob Burber, number 21 on the  
2 new page.

3 MS. GUERRA: Waive a public reading of the  
4 felony complaint and request that the case be adjourned  
5 for conference. At this time, I'm serving written  
6 notice on the district attorney's office of my client's  
7 intent to testify before the Grand Jury pursuant to CPL  
8 190.50.

9 As to the issue of custody, my client is 48  
10 years old. He's lived in Nassau County for 44 years  
11 here in West Hempstead. He currently lives with his  
12 wife and two children, ages 8 and 11. He owns the home  
13 that he lives in. He also owns two restaurants in  
14 Garden City. The first one for five years, the second  
15 one 2 years. Prior to that, he was a chef in Nassau  
16 County for 25 years. He's completed up to twelfth  
17 grade.

18 In viewing his NYSID, we do acknowledge some  
19 prior contact. There is one bench warrant. It does  
20 show that he vacated it in 1985. However, after that,  
21 there's no bench warrant activity. My client has  
22 recently made all his Court dates in a previous case.  
23 As to the allegation, he does deny them in their  
24 entirety. Judge, I ask that you consider ROR'ing him.  
25 If you're not inclined to do so, then I ask that you

1 consider \$500 bail.

2 THE COURT: People?

3 MS. AZAR: People are serving 710.30, 250.20  
4 and 240.30 notices. In this case, the defendant and  
5 victim became involved in a road rage incident where  
6 the defendant forced the victim to veer his car across  
7 the double lines into oncoming traffic. The defendant  
8 then pulled out a semi-automatic weapon and pointed it  
9 at the victim.

10 The victim was able to call 911 where the  
11 police eventually met up with the defendant at his  
12 home. There were guns recovered from the defendant's  
13 home. They were unregistered. In looking to the  
14 defendant's NYSID, there are prior contacts with the  
15 criminal justice system.

16 Based on the seriousness of the allegations  
17 here, he is facing a C felony and based on those prior  
18 contacts, the People would request \$20,000 bail, as  
19 well as a stay away order of protection for the victim  
20 in this case.

21 THE CLERK: Stay away from the home, school,  
22 business, place of employment of Michael Laterza.  
23 Refrain from communication, contact, telephone, e-mail,  
24 voicemail or any other electronic means. Refrain from  
25 assault, stalking, harassment, menacing, reckless

endangerment. Sir, also, if you have any firearms, you have to surrender them to your local precinct upon your release. This order is in effect until the final disposition of this case.

Judge, let the record reflect that the defendant has signed and is served a copy, we'll place a copy in the file for defense counsel, copies distributed to police department.

THE COURT: Based on all the factors set forth by counsel for the defendant, as well as for the People, I think appropriate bail in this case is \$2,500.

THE CLERK: Cash or bond?

THE COURT: Cash or bond.

THE CLERK: This case is going to part 9L on 10/10 for the defendant to retain his own attorney. Bail is \$2,500 cash or bond.

[illegible]

The forgoing is hereby certified to be a true and accurate transcript of the proceedings as transcribed from the stenographic notes.

Richard Rossin

MICHELE ROSSI, R.P.R.  
Official Court Reporter

**EXHIBIT "E"**



COPY RECEIVED THIS  
DAY OF January 2013  
COUNTY ATTORNEY, NASSAU COUNTY  
BY [Signature]

-----X  
In the matter of the Claim of

JACOB BURBAR

Claimant,

**NOTICE OF CLAIM**

- against -

INCORPORATED VILLAGE OF GARDEN CITY  
and COUNTY OF NASSAU

Respondents.

NASSAU CO. ATTORNEY  
2012 JAN 11 PM 1 16

To: Village Clerk  
Incorporated Village of Garden City  
351 Stewart Avenue  
Garden City, New York 11530

Office of County Attorney  
County Executive Building  
One West Street  
Mineola, New York 11501

PLEASE TAKE NOTICE that the claimant, Jacob Burbar, hereby makes claim and demand against the Village of Garden City, New York and the County of Nassau, New York as follows:

*That the claimant was falsely arrested and maliciously prosecuted.*

1. The name and post office address of the claimant and of the claimant's attorney is:

Claimant: Jacob Burbar, 164 Mayfair Avenue, West Hempstead, New York 11552.

Attorney: Robert Klugman, Esq., 1305 Franklin Avenue, Suite 270, Garden City, New York 11530.

2. The nature of the claim: Claimant was falsely arrested and illegally imprisoned for one day; maliciously prosecuted and forced to be present in court even though the Incorporated Village of Garden City, New York and the County of Nassau, New York knew that there was no

3. The time when, the place where and the manner in which the claim arose: On October 13, 2011, Claimant was involved in an incident with Michael Laterza causing Claimant to be charged with Menacing in the second degree. Claimant lawfully possessed a pistol license and lawfully owned four handguns. Claimant surrendered his handguns and pistol license to the arresting police officers. Several hours after being charged with Menacing in the second degree the Garden City Police returned to Claimant's residence and arrested him with additional charges of Criminal Possession of a weapon in the second and third degree. The complaint stated that Claimant did not have a Pistol License permitting him to possess the weapons at his residence. This was untrue. Claimant lawfully possessed the weapons and the police officers had more than sufficient time to determine that his pistol license was valid and that the weapons were properly registered to him. Claimant was arrested without probable cause. Following Claimant's second arrest, Claimant was imprisoned at the Garden City Police Department, Nassau County Police Headquarters, Nassau County Correctional Facility and the First District Court of Nassau County. Claimant was imprisoned overnight and was released on bail the following day. Subsequently, all charges relating to the weapons possession were dismissed. Claimant's Case Report Number is GC-00674-11; his Arrest Number is GC-00250-11 and the Blotter Number is GC-008588-11.

4. The items of damages or injuries claimed are: False arrest and illegal imprisonment; loss of earnings; cost of defending case; damage to claimant's reputation; the impairment of his earning power; claimant's health was impaired; claimant's civil rights were violated.

Said claim is hereby presented for adjustment to the respondents within the time limited for compliance with this demand. In the event of the default of such adjustment, claimants intend to commence an action against the respondents to recover this claim. The claim is for an amount to be determined upon trial of this action.

Dated: Garden City, New York  
January 10, 2012

Respectfully yours,

---

Jacob Burbar

Robert Klugman, Esq.  
Attorney for Claimant, Jacob Burbar  
1305 Franklin Avenue, Suite 270  
Garden City, New York 11530  
516 222-2655

STATE OF NEW YORK )

) SS:

COUNTY OF NASSAU )

**EXHIBIT "F"**

Case Report No: GC-00674-11 Police Serial No: Blotter/CC No.: GC-008588-11  
Arrest Number: GC-00250-11 Return Date: 10/14/2011

Defendant in Custody from: 16:37 October 13, 2011 to Court Docket No.:

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:30PM at 164 MAYFAIR AVE W HEMPSTEAD in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
POSS WEAPON 3  
CLASS D  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.02 SUBDIVISION 1 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID COMMIT THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE, TWO, THREE OR FIVE OF SECTION 265.01 AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME, TO WIT: At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

The above is based on personal knowledge and information and belief, the source for said belief being the complainant, the defendant's NYSID, and check of the County Pistol License database.

Prepared By  
PO MARCEDA

Did

Subscribed and sworn to before me  
this 14 day of October, 2011

GERARD K KNEISEL  
LIEUTENANT

ROCCO A MARCEDA  
POLICE OFFICER

Arrest Number....: GC-00250-11

Court Docket No.: \_\_\_\_\_

Defendant in Custody from: 16:37 October 13, 2011 to \_\_\_\_\_

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:30PM at 164 MAYFAIR AVE W HEMPSTEAD in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
POSS WEAPON 3  
CLASS D  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.02 SUBDIVISION 1 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID COMMIT THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE, TWO, THREE OR FIVE OF SECTION 265.01 AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME, TO WIT: At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

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Prepared By  
PO MARCEDA

Subscribed and sworn to before me  
this 14 day of October, 2011

GERARD K KNEISEL  
LIEUTENANT

ROCCO A MARCEDA  
POLICE OFFICER

D'd

Case Report No.: GC-00674-11 Police Serial No.: Blotter/CC No.: GC-008588-11  
Appearance Ticket: 1116/JF Return Date: 10/14/2011

Arrest Number: GC-00250-11

Court Docket No.:

Defendant in Custody from: 16:37 October 13, 2011 to

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

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JACOB BURBAR

OFFENSE  
POSS WEAPON 3  
CLASS D  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.02 SUBDIVISION 5(i) OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID KNOWINGLY POSSESS THREE OR MORE FIREARMS, TO WIT: At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

The above is based on personal knowledge and information and belief, the source for said belief being the complainant, the defendant's NYSID, and check of the County Pistol License database.

Prepared By  
PO R MARCEDA

*Did*

Subscribed and sworn to before me  
this 14 day of October, 2011

ROCCO A MARCEDA  
POLICE OFFICER

GERARD K KNEISEL  
LIEUTENANT

Case Report No: GC-00674-11 Police Serial No: Blotter/CC No.: GC-008588-11  
Appearance Ticket: 141079 Return Date: 10/14/2011  
Arrest Number: GC-00250-11 Court Docket No.:  
Defendant in Custody from: 16:37 October 13, 2011 to #23087

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

D.O.B.:  
(1) 08/12/1963

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:11PM at 164 MAYFAIR AVE W HEMPSTEAD in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
POSS WEAPON 2  
CLASS C  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.03 SUBDIVISION 3 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID POSSESS ANY LOADED FIREARM, TO WIT; At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

The above is based on personal knowledge and information and belief, the source for said belief being the complainant, the defendant's NYSID, and check of the County Pistol License database.

Prepared By  
PO R MARCEDA

Did

Subscribed and sworn to before me  
this 14 day of October, 2011

GERARD K KNEISEL  
LIEUTENANT

ROCCO A MARCEDA  
POLICE OFFICER

Case Report No: GC-00674-11 Police Serial No: Blotter/CC No.: GC-008588-11  
Appearance Ticket: 1116731 Return Date: 10/14/2011  
Arrest Number: GC-00250-11 Court Docket No.:  
Defendant in Custody from: 16:37 October 13, 2011 to

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:30PM at 164 MAYFAIR AVE W HEMPSTEAD in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
POSS WEAPON 3  
CLASS D  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.02 SUBDIVISION 1 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID COMMIT THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE, TWO, THREE OR FIVE OF SECTION 265.01 AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME, TO WIT; At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

The above is based on personal knowledge and information and belief, the source for said belief being the complainant, the defendant's NYSID, and check of the County Pistol License database.

Prepared By  
PO MARCEDA

Subscribed and sworn to before me  
this 14 day of October, 2011

GERARD K KNEISEL  
LIEUTENANT

ROCCO A MARCEDA  
POLICE OFFICER

*did*



Case Report No: GC-00674-11 Police Serial No: Blotter/CC No.: GC-008588-11  
Appearance Ticket: 111847 Return Date: 10/14/2011

Arrest Number: GC-00250-11

Court Docket No.:

Defendant in Custody from: 16:37 October 13, 2011 to

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:30PM at GARDEN CITY in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
POSS WEAPON 3  
CLASS D  
FELONY

THE DEFENDANT(S) DID VIOLATE SECTION 265.02 SUBDIVISION 1 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE SAID DEFENDANT(S) DID COMMIT THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS DEFINED IN SUBDIVISION ONE, TWO, THREE OR FIVE OF SECTION 265.01 AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME, TO WIT; At foresaid date, time and place, upon investigating an incident, in which the defendant pulled out a semi automatic handgun and pointed it at the victim, your deponent was granted written permission by the defendant to search his residence located at 164 Mayfair Ave, West Hempstead, New York. While inside the defendant's residence, the defendant handed to your deponent a lock box containing 3 handguns: 2 Smith & Wesson's, and a Ruger. The defendant unlocked a safe and your deponent took a loaded Ruger, which was identified by the victim as the gun the defendant previously pointed at him. The defendant stated to your deponent that all of the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny, a Class A misdemeanor on February 27, 1986.

The above is based on personal knowledge and information and belief, the source for said belief being the complainant, the defendant's NYSID, and check of the County Pistol License database.

Prepared By  
PO MARCEDA

Subscribed and sworn to before me  
this 14 day of October, 2011

GERARD K KNEISEL  
LIEUTENANT

ROCCO A MARCEDA  
POLICE OFFICER

*D'd*

Appearance Ticket:

Return Date...:10/14/2011

Arrest Number....:GC-00250-11

Court Docket No.:

Defendant in Custody from: 16:37 October 13, 2011 to

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:11PM at ROCKAWAY AVE @ 4 ST GARDEN CITY in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE  
MENACING 2ND  
CLASS A  
MISDEMEANOR

THE DEFENDANT(S) DID VIOLATE SECTION 120.14 SUBDIVISION 1 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID THE SAID DEFENDANT(S), DID INTENTIONALLY PLACE OR ATTEMPT TO PLACE ANOTHER PERSON IN REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY, OR DEATH BY DISPLAYING A DEADLY WEAPON, DANGEROUS INSTRUMENT OR WHAT APPEARS TO BE A PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM, TO WIT; At the aforesaid time and place of occurrence, the defendant became involved in a road rage incident with the victim and subsequently the defendant did pull out a black semi automatic handgun and pointed it at victim.

Supporting Deposition of MICHAEL LATERZA annexed hereto and made a part hereof.

This complaint is based on personal knowledge and information and belief, the source being, COMPLAINANT

Prepared By  
PO MARCEDA

Subscribed and sworn to before me  
this 14 day of October, 2011

ROCCO A MARCEDA  
POLICE OFFICER

GERARD K KNEISEL  
LIEUTENANT

Appearance Ticket: 11167

Return Date...: 10/14/2011

Arrest Number....: GC-00250-11

Court Docket No.:

Defendant in Custody from: 16:37 October 13, 2011 to

DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT ARRAIGNMENT PART  
THE PEOPLE OF THE STATE OF NEW YORK  
against

JACOB BURBAR (48)  
164 MAYFAIR AVE  
W HEMPSTEAD, NY 11552-

D.O.B.:  
(1) 08/12/1963

STATE OF NEW YORK<sup>SS</sup>  
COUNTY OF NASSAU

PO ROCCO A MARCEDA, Shield 117, being duly sworn, deposes and says that he is a member of the GARDEN CITY POLICE DEPT, County of NASSAU, New York and that on the 13 day of October, 2011, at about 4:11PM at ROCKAWAYAVE @ 4 ST GARDEN CITY in the County of NASSAU, New York.

JACOB BURBAR

OFFENSE

RECK ENDANGER 2ND  
CLASS A  
MISDEMEANOR

THE DEFENDANT(S) DID VIOLATE SECTION 120.20 OF THE PENAL LAW OF THE STATE OF NEW YORK, IN THAT AT THE TIME AND PLACE AFORESAID, THE DEFENDANT(S) DID RECKLESSLY ENGAGE IN CONDUCT WHICH CREATED A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, TO WIT; At the aforementioned time and place the defendant was operating a 2010 Toyota SUV Land Cruiser bearing NY Reg # EBZ-4020 s/b Rockaway Ave in Garden City. Complainant Laterza stated that defendant Burbar did intentionally come to an abrupt stop with his SUV almost causing the complainant to collide into the rear of the defendant's vehicle thereby risking serious physical injury to the complainant. Complainant further states that the defendant then continued s/b Rockaway Ave and when the complainant attempted to pass the defendant that the defendant did veer his SUV into the left lane and pointed a semi automatic pistol at the complainant causing the complainants vehicle to cross over the double yellow pavement lines into on coming traffic.

Supporting Deposition of MICHAEL LATERZA annexed hereto and made a part hereof.

This complaint is based on personal knowledge and information and belief.

Prepared By  
PO MARCEDA

Subscribed and sworn to before me  
this 14 day of October, 2011

ROCCO A MARCEDA  
POLICE OFFICER

GERARD K KNEISEL  
LIEUTENANT

**EXHIBIT "G"**

Defendant's Name: Jacob Burbor

Appearance Date: 10/14

ECAB # 9162/11

710.50

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# ECAB

# WORK-UP

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## DC ECAB

**From:** Robert Formichelli  
**Sent:** Friday, October 14, 2011 3:30 AM  
**To:** DC ECAB  
**Cc:** Notification Group-Gun Cases  
**Subject:** ECAB 9162/11 (Burbar, Jacob) 10/14/11 (F)  
**Attachments:** Burbar, Jacob 9162 710.30.pdf

- (\*) Defendant charged with CPW 2<sup>nd</sup> for possessing a loaded firearm.
- (\*) Defendant used said firearm (pistol) to menace the victim during a road rage incident (Menacing 2<sup>nd</sup> also charged).
- (\*) Defendant also charged with four counts of CPW 3 (based on additional firearms recovered from def's home + def has prior conviction) and with reckless endangerment.

10/14/2011

**Defendant Information**

Def Name / Address      ECAB #    Enter Date    Offense Date    Arraign Date    DOB  
 Burbar, Jacob      9162/11    10/13/2011    10/13/2011    10/14/2011    8/12/1963  
 164 Mayfair Avenue  
 West Hempstead, NY 11552-

Entered By: Lipinsky      Alias:      Gang Aff:      ☐ ICE    ☐ IMPACT

**Charges:**

Charge	Charge Description	Top Count
265.03(3)	Crim Poss Weap 2nd Degree (C Fel)	<input checked="" type="checkbox"/>
265.02(5)	Crim Poss Weap 3rd Degree (D Fel)	<input type="checkbox"/>
265.02(1)	Crim Poss Weap 3rd Degree (D Fel) x4cts	<input type="checkbox"/>
120.14	Menacing 2nd (A Mis)	<input type="checkbox"/>
120.20	Reckless Endang 2nd (A Mis)	<input type="checkbox"/>

**DWI**

BAC: 0      ☐ Refusal  
☐ Video      ☐ Crash  
☐ Injuries      ☐ Warrant  
☐ Urine      ☐ Blood  
☐ Death      ☐ Krimstock

**Co-Defendants****Drugs**

☐ FEB Ordered    ☐ In File  
☐ Audio      ☐ Video

**Bail Factors:**

Per SNAG, please request moderate bail.

**Follow Up:**

Speak with the cw.

☒ TOP Request at Arraignment

**Notifications:**

Gun Group

**Oral Statement:**

☒ 710:30 Prepared    ☒ Oral    ☐ Written    ☐ Video

I didn't pull a gun on anyone. I had my cellphone in my hand.  
 I'm a restaurant owner. I do have guns, I have a gun permit. One is in my kitchen in a safe, the other guns are in the box locked in my bedroom. And I also have a rifle in my bedroom. They're mine.

**Identification:** ID Type: Showup    ☒ 710.30 Prepared

**Case Facts / Relationship Between Parties:**

No relationship between defendant and victim:

On 10/13/11 at 16:34, the defendant became involved in a road rage incident with the victim, forcing the victim to veer his vehicle across the double yellow lines into the opposing lanes of traffic. The defendant then pulled out a black semi automatic handgun and pointed it at the victim. The victim followed the defendant and called 911. The defendant drove to his residence and went inside his house. The police arrived and the defendant came out of his house. Police officers were granted written permission by the defendant to search his residence located at 164 Mayfair Avenue, West Hempstead, New York. While inside the residence, the defendant handed to the police a lock box containing 3 handguns, and a safe containing the loaded gun that was pointed at the victim. The defendant stated to the police that the firearms were owned by him. The defendant did not have a pistol license permitting him to possess any of the four firearms at 164 Mayfair Avenue. The defendant was previously convicted of Petit Larceny.

**Assessment / Likely Defense:**

By ADA Lipinsky:  
 Charges are sufficient.  
 Case was discussed with SNAG. Per SNAG's request, no ECAB analysis.

Victim indicated to the police that he wants an order of protection.

**Evidence Seized / By Who and Where:**

4 handguns, 1 rifle seized from the defendant's residence

## Defendant Information

Def Name / Address	ECAB #	Enter Date	Offense Date	Arraign Date	DOB
Burbar, Jacob 164 Mayfair Avenue West Hempstead, NY 11552-	9162/11	10/13/2011	10/13/2011	10/14/2011	8/12/1963

Case handed off from ADA Lipinsky to ADA Formichelli (who approved final paperwork).

**Other Evidence:**    ☒ 911    ☐ Photos    ☐ Video    ☐ Meds    **Provider:**

**Meds Ordered Date:**

**911 Date:**



## Complainant / Witness Information

Defendant: **Burbar, Jacob**

ECAB # 9162/11

### Complainant Name / Address

Michael Laterza  
22 Edward Avenue  
Woodmere, NY 11598-

Alternative  
Contact:

#### Phone Numbers

Home Phone: (516) 837-9446

Work Phone:

Cell Phone:

#### Personal Information

DOB:

SS #:

Interpreter Needed: ☐

Language Needed:

#### Photo Information

Were Photos Taken: ☐

Date Photos Taken:

Photos Taken By Who:

#### Restitution

Restitution: ☐

Restitution Amount:

Complainant Injuries:

Grand Jury Witnesses:

## Miscellaneous Report

Defendant: **Burbar, Jacob**

ECAB #: **9162/11**

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### DWI

DWI Time of Arrest:

☐ Routine ☐ Non Routine

DWI Paperwork Received:

☒ Police Paperwork Corrections:

☒ Rosario

Changes Requested By ECAB:

Added felony charges.  
Unattached supporting deps

Additional Notes:

Forward Rosario.

### Penal Law

Case Approved: 2:45 AM

Fax Received: 8:23 PM

Time of Arrest: 4:37 PM

Name of P.O.: PO Marceda

P.O. Contact With ECAB at Assessment: Yes

Command: Garden City

Arrest Number: GC-00250-11

☐ Follow Up Complete